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C O N F I D E N T I A L SECTION 01 OF 03 COLOMBO 001581

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SUBJECT: HUMAN RIGHTS MINISTER SAYS THE RIGHT THINGS,
BUT CAN HE DELIVER?

Ref A. COLOMBO 1543, B. COLOMBO 1549

Classified By: Ambassador Robert O. Blake for Reasons
1.4 (b) and (d)

¶1. (C) Summary. Ambassador Blake met for an introductory call with Minister for Disaster Management and Human Rights Mahinda Samarasinghe on September 25 to urge the GSL to be more proactive in dealing with allegations of human rights abuses. Samarasinghe responded that he too is concerned about the stalemate in investigations because the GSL's and his personal credibility are at stake. He said the President has taken bold decisions to invite a group of "eminent persons" as international observers and to create a Presidential Commission of Inquiry (PCI) made up of local members who will have investigative responsibilities. Samarasinghe also welcomed U.S help to invigorate the Human Rights Commission (HRC) and asked if the Co-Chairs could look at the issue of getting humanitarian supplies to Jaffna. It remains to be seen whether these initiatives will be any more effective than the government's previous attempts at investigations, particularly since Samarasinghe candidly noted at the end of the meeting that it is difficult for him to be effective without the cooperation and support of the defense establishment. End Summary.

Ambassador Registers U.S. Concerns

¶2. (C) Ambassador Blake met with Minister for Disaster Management and Human Rights Mahinda Samarasinghe on September 25 to urge the GSL to be more proactive in dealing with allegations of human rights abuses. The Ambassador expressed the USG's concern about the growing human rights problem in Sri Lanka, including several high profile incidents and a rise in disappearances and abductions. He told Samarasinghe that the GSL says all the right things, but without follow through, and prosecution and punishment of those responsible, Sri Lanka will continue to lose credibility in the international community. The

Ambassador said dealing effectively with the human rights cases is extremely important to deter further incidents. He observed that Sri Lanka's friends and critics alike have noticed the lack of investigations into recent incidents, but that the U.S. is pleased that President Rajapaksa has decided to accept international experts to act as observers. He told the Minister that the U.S. will name one or two representatives to the observer mission and hopes the initiative will not only lead to investigations, but also action against human rights offenders. He added that as a friend and supporter of Sri Lanka we want to help the GSL fight terrorism. The Ambassador noted, however, that Sri Lanka was beginning to lose the international community's sympathy over its terrorist problem because of the human rights allegations against its security forces. The Ambassador emphasized U.S. readiness to help the GSL develop a stronger capacity to deal with its human rights issues.

New Initiative Combines International Observers and Local Investigators

3.(C) Samarasinghe (who was not accompanied by a notetaker) responded, "I'm on the same wavelength as you." He said he has been saying the same things to others in the government and is concerned that results have not been forthcoming. He commented, "We are not helping friends such as you help us more." He is

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concerned about the stalemate because the GSL's and his personal credibility are at stake. The Minister said the President has taken the bold decision to have international observers, a "group of eminent persons," come to Sri Lanka for just that reason. He explained that Sri Lanka's domestic legal framework would allow foreign observers, but not investigators, to operate in country. Because of that, the President has put in place a Presidential Commission of Inquiry (PCI) made up of local members that will have investigative and inquiry responsibilities and will work with the international observers. The groups will have a renewable six-month mandate. The GSL has asked Amnesty International, the UN High Commissioner for Human Rights, the Secretary General of the Inter-Parliamentary Union, the United States, and the Australians to nominate observers. Justice Bhagwati from India has already consented to join. The observers will work in pairs for a month at a time and will each submit individual reports to the President at the end of their term. The GSL is striving to draft the terms of reference (TOR), which will govern the international observers and the PCI, acceptable to the international community. The Minister said he hoped the TOR would be completed by next week.

¶4. (C) When asked why the mandate was longer than originally proposed, Samarasinghe pointed out that it takes time to look into the ongoing investigations and identify shortcomings and ways to overcome them. The PCI will also receive public complaints and information and needs time to process those as well. The Minister hopes that the public will be more forthcoming with the PCI than with the police. Among the practical difficulties the GSL faces in investigating human rights cases is lack of access to LTTE-controlled areas. The Ambassador pointed out that an equal level of scrutiny should be applied to the Liberation Tigers of Tamil Eelam (LTTE). Samarasinghe agreed. The Ambassador cautioned that part of the group's mandate must be to go into LTTE areas;

otherwise, the final report would be one-sided. The Ambassador suggested that the Co-Chairs could possibly help in this area.

Human Rights Commission Inadequate

15. (C) The Ambassador also raised the issue of the Human Rights Commission (HRC) and pointed out that the current chair is not as strong or credible as his predecessor, in part because of the extra-constitutional manner in which he was appointed. Samarasinghe candidly agreed. The Ambassador asked the Minister how the international community could help build the HRC's knowledge and capacity. Samarasinghe responded that the HRC is an "independent body" that he does not oversee. That said, he agreed that former Chair Coomaraswamy inspired confidence and attracted funding. He said he would like to see the HRC become more proactive and show results. The Minister said that he had suggested a Parliamentary Select Committee to address the shortcomings of the 17th Amendment, which governs the make-up of the HRC.

GSL Frustrated with NGOs

16. (C) The Ambassador pointed out that the US is a major donor in Sri Lanka and that many NGOs feel at risk here, now more than in the past. Two major issues are access, getting to where they need to work, and dialogue, access to the Human Rights Ministry and the military to coordinate aid. Samarasinghe replied

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that he needs the support of the defense establishment to ensure those things and said, "I'm hitting my head on a log." He explained that the international community is not responding to the military's request to take supplies to Jaffna by sea. The ICRC took supplies once, but since then the LTTE has refused to give their approval for more ships and instead wants supplies to move on the A9 highway, which the defense department will not agree to. He said he met with the ICRC while he was in Geneva last week to discuss the stalemate. Navy ships are now escorting supplies, but they are at greater risk, crews are reluctant to continue, and they have to go to another port where it is harder to unload. Samarasinghe expressed frustration that the ICRC or UN agencies cannot help with this. He said aid groups do not want to take the supplies without LTTE approval because it would then jeopardize their operations in Killinochi. The Defense Ministry feels that if these groups want access to rest of the North and East, then they should have to help in Jaffna. Samarasinghe does not agree that there should be conditions on aid, but said that both sides need to be practical and flexible and make sure supplies get to all areas. Samarasinghe asked if the Co-Chairs could look at the issue of supplies and help resolve the stalemate. (Note: The ICRC told USAID that it will not conduct supply missions to Jaffna because it has been directly warned not to do so by the LTTE and because the ICRC in principle only operates with the consent of both sides of a conflict. The Bilateral Donors Group is trying to get a meeting with Human Rights Ministry and the Defense Ministry to try to resolve access issues related to IDPs.)

Minister Welcomes US Input on New Human Rights Initiatives

¶8. (C) Samarasinghe said that he had come up with several new initiatives that he would like the Embassy to look at. One is a 10-year roadmap on disaster management and human rights. Another is an interfaith religious initiative designed to look at religious conflict and the 1983 violence in particular, similar to the Truth and Reconciliation Commission in South Africa. He also wants to push for implementing language training in Sinhala, Tamil, and English for all students using distance-learning technology in remote locations. The Minister is also working on an initiative to create human rights help desks that would look at the human rights component of tsunami recovery efforts and increase his ministry's presence throughout the country. The help desks would take complaints, but he was careful to point out that he did not want to take on the job of the HRC and that the regional capacity of the HRC should also be strengthened.

Comment

¶9. (C) Samarasinghe is an articulate, knowledgeable and credible Minister. But, as he himself acknowledged, it is difficult for him to be effective without the cooperation and support of the defense establishment. Since the defense establishment is currently delivering on-the-ground successes against the LTTE that have strengthened the President's popular support, Samarasinghe faces an uphill task. Septels describe current efforts by the Co-Chairs to address this issue and provide post's analysis of how the international community can strengthen Sri Lanka's human rights investigative and judicial capacity.

BLAKE